

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|---|---|-----------------|
| BOONE COUNTY WATER AND SEWER DISTRICT, |) | |
| SANITATION DISTRICT NO. 1 OF CAMPBELL AND |) | |
| KENTON COUNTIES, DWIGHT BRAY, BILL C. |) | |
| SHEHAN, SR., ROBERT C. BELL, RICHARD |) | |
| CRISP, AND R. C. DURR |) | |
| |) | |
| |) | |
| |) | CASE NO. 93-084 |
| |) | |
| ALLEGED VIOLATION OF KRS 278.020(1) |) | |

O R D E R

Boone County Water and Sewer District ("Boone District"), a combined water and sewer district, owns and operates facilities in Boone County, Kentucky, for the treatment of sewage, for the public for compensation, and is a public utility. KRS 278.010(3)(f) and 278.015.

Sanitation District No. 1 of Campbell and Kenton Counties ("Sanitation District No. 1") is a public corporation organized under the provisions of KRS 220.010 to 220.540 and established, inter alia, to provide for the collection and disposal of sewage and other liquid waste produced within Campbell and Kenton counties.

KRS 278.020(1) prohibits any person, partnership, public or private corporation from beginning construction of any plant, equipment, property or facility for furnishing to the public any of the services enumerated in KRS 278.010 until such person has

obtained from the Commission a certificate that public convenience and necessity require such construction.

On December 29, 1992, Boone District advised the Commission in another proceeding¹ that Sanitation District No. 1 had commenced construction on a sewage collection system which Boone District will own, operate, and maintain. Boone District stated that construction of the system began in accordance with an agreement between Boone District and Sanitation District No. 1. No certificate of public convenience and necessity has been issued for the construction of the proposed collection system.

Based on the above, the Commission finds that prima facie evidence exists that Boone District and Sanitation District No. 1 have failed to comply with KRS 278.020(1). The Commission further finds that prima facie evidence exists that Dwight Bray, Bill C. Shehan, Sr., Robert C. Bell, Richard Crisp and R.C. Durr, who control and manage Boone District's affairs in their capacity as members of its Board of Commissioners, have procured, aided and abetted these violations.

IT IS THEREFORE ORDERED that:

1. Boone District and Sanitation District No. 1 shall appear before the Commission on April 20, 1993, at 10:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, to show cause why they should

¹ Case No. 92-532, The Petition of Boone County Water and Sewer District for Approval of a Certificate of Convenience and Necessity to Construct Sanitary Sewer Facilities. Boone District's Response to the Commission's Order of December 14, 1992, at 2-3.

not be subject to the penalties prescribed by KRS 278.990(1) for their alleged failure to comply with KRS 278.020(1).

2. Dwight Bray, Bill C. Shehan, Sr., Robert C. Bell, Richard Crisp, and R.C. Durr, in their individual capacities, shall also appear at the same hearing to show cause why they should not be subject to the penalties prescribed by KRS 278.990(1) for their alleged role in procuring, aiding and abetting Boone District's failure to comply with KRS 278.020(1).

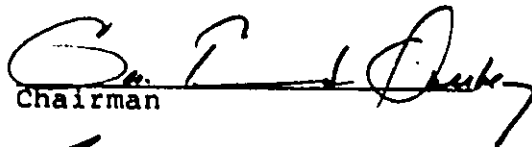
3. Any motion requesting an informal conference with Commission Staff for the purpose of clarifying issues or stipulating facts shall be filed by April 1, 1993.

4. Boone District and Sanitation District No. 1 shall submit within 20 days of the date of this Order a written response to the allegations contained herein concerning their alleged failure to comply with KRS 278.020(1).

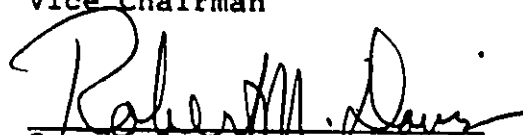
5. Dwight Bray, Bill C. Shehan, Sr., Robert C. Bell, Richard Crisp, and R.C. Durr, in their individual capacities, shall submit within 20 days of the date of this Order a written response to the allegation concerning their alleged role in Boone District's alleged failure to comply with KRS 278.020(1).

Done at Frankfort, Kentucky, this 15th day of March, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director